



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2018-0389; FRL-9980-83-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Wyoming;

Incorporation by Reference Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve eight State Implementation Plan (SIP) revisions submitted by the State of Wyoming, four submitted on March 27, 2017, and four submitted on March 28, 2018. The revisions include updates to incorporation by reference within several parts of the Wyoming Air Quality Standards and Regulations that are part of the SIP. Additional revisions are proposed that: 1) Correct an inconsistency regarding internal combustion engine nitrogen oxide requirements; 2) amend three state regulations to maintain consistency with federal regulations; and 3) update a state internet address.

DATES: *Comments:* Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2018-0389, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Dresser, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6385, dresser.chris@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 17, 2016, and December 5, 2017, the Environmental Quality Council (EQC) of the Wyoming Department of Environmental Quality conducted public hearings pursuant to 40 CFR 51.102 to consider the adoption of revisions and additions to the Wyoming Air Quality Standards and Regulations. The EQC approved changes were submitted to the EPA for approval into Wyoming's State Implementation Plan (SIP) on March 27, 2017 (2017 Submittal) and March 28, 2018 (2018 Submittal). The SIP submittals include: 1) Chapter 8 Nonattainment Area Regulations, Section 10, Incorporation by reference (2017 Submittal); 2) Chapter 8, Nonattainment Area Regulations, Section 3, Conformity of general federal actions to state implementation plans (2018 Submittal), and Section 10, Incorporation by reference (2018 Submittal); 3) Chapter 6, Permitting Requirements, Section 4, Prevention of significant deterioration (2017 Submittal); 4) Chapter 6, Permitting Requirements, Section 14, Incorporation by reference (2018 Submittal); 5) Chapter 3, General Emission Standards, Section 3, Emission standards for nitrogen oxides (2017 Submittal); 6) Chapter 3, General Emission Standards, Section 9, Incorporation by reference (2018 Submittal); and 7) Chapter 2, Ambient Standards, Section 6 (2017 Submittal); 8) Chapter 2, Ambient standards for ozone, and Section 12, Incorporation by reference (2018 Submittal).

The March 28, 2018 state submittals include requests to update the code of federal regulations (CFR) date of incorporation by reference to reflect the July 1, 2017 CFR, which supersedes the requested changes in the March 27, 2017 state submittals that incorporated by reference the July 1, 2016 CFR (Chapter 8, Nonattainment Area Regulations, Section 10, Incorporation by reference; Chapter 6, Permitting Requirements, Section 14, Incorporation by

reference; Chapter 3, General Emission Standards, Section 9, Incorporation by reference; Chapter 2, Ambient standards for ozone, Section 12, Incorporation by reference).

II. Analysis of the State's Submittal

The EPA evaluated the proposed amendments to the Wyoming Air Quality Standards and Regulations submitted by the State of Wyoming on March 27, 2017, and March 28, 2018. The EPA notes that the incorporation by reference updates requested by Wyoming in the March 27, 2017 submittal have been superseded by updates requested in their March 28, 2018 submittal and are not analyzed here. The subsequent analysis for each SIP submittal is as follows:

- 1) The State is requesting that the EPA correct a reference in Chapter 8, Nonattainment Area Regulations, Section 10, Incorporation by reference, to adopt by reference the July 1, 2016 CFR. This request has been superseded by the a more recent submittal which requests updates to Chapter 8, Section 10, described and analyzed in SIP submittal (2), as follows.
- 2) The State is requesting that the EPA correct a reference in Chapter 8, Nonattainment Area Regulations, Section 3, Conformity of general federal actions to state implementation plans. Specifically, the request includes a minor typographical correction to particulate matter to maintain consistency with federally approved language in 40 CFR 93.158(a)(4); a change from "PM₁₀" to "PM" in the State's rule Chapter 8, Section 3(h)(i)(D). The EPA finds that this update is necessary and appropriate. This action also proposes to update Chapter 8, Nonattainment Area Regulations, Section 10, Incorporation by reference, to adopt by reference the July 1, 2017 CFR. The State previously submitted SIP revisions for Chapter 8, Section 10 (noted earlier in SIP submittal (1)) on March 27, 2017 that allowed adoption by

reference of federal regulations as of July 1, 2016, and have since been superseded by the March 28, 2018 submittal. The EPA finds that this update is necessary and appropriate to cite the more recent July 1, 2017 CFR and incorporate by reference.

- 3) This action proposes to update Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration, to remove an outdated Federal Register citation under the definition of 'tpy CO₂ equivalent emission (CO₂e),' in the State's Rule Chapter 6, Section 4(a) and the location for obtaining a copy of the federal regulation. By deleting the reference to the outdated federal regulation (November 29, 2013), the revised State rule includes the language found in 40 CFR 51.166(b)(48)(ii)(a). This provision of the Prevention of Significant Deterioration (PSD) permit rules describes one of the steps to compute the amount of GHGs emitted, and explains that one multiplies the mass amount of emissions (tpy) for each of the six greenhouse gases, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter—Global Warming Potentials. The State adopted these amendments in December 2017 and therefore adopted the version of Table A-1 to subpart A of part 98 that was in effect at that time. The EPA believes this update is necessary and appropriate to accurately cite the most recent calculation methodology and GHG's associated global warming potential.
- 4) As requested in the State's March 28, 2018 submittal, the EPA is proposing to update Chapter 6, Section 14, Incorporation by reference to adopt by reference the July 1, 2017 CFR. The State previously submitted SIP revisions for Chapter 6, Section 14 on March 27, 2017, that allowed adoption by reference of federal regulations as of July

1, 2016, and have since been superseded by the March 28, 2018 submittal. The EPA finds that the update is necessary and appropriate to cite the more recent July 1, 2017 CFR and incorporate by reference.

- 5) This action proposes to update Chapter 3, Section 3, Emission standards for nitrogen oxides, which corrects an inconsistency regarding internal combustion engines. The EPA finds that the requirements governing fuel burning equipment (including internal combustion engines) are covered in Chapter 1, Section 3 of the SIP; so, the language removed in Chapter 3, Section 3, (a)(viii), is a vestigial exemption for engines with a heat input less than 200 million Btu per hour that no longer applies. Therefore, the EPA finds that the change made to Chapter 3, Section 3, is necessary and appropriately corrects the noted inconsistency regarding internal combustion engines. Finally, the State's rulemaking action included an update to the website link for contact information for the Cheyenne Office of the Wyoming Division of Air Quality, Chapter 3, Section 9(a) and (b). The EPA finds it is necessary and appropriate to update the website referenced in the SIP to ensure it is accurate.
- 6) This action proposes to update Chapter 3, General Emission Standards, Section 9, Incorporation by reference, to adopt by reference from the July 1, 2017 CFR. The State previously submitted SIP revisions for Chapter 3, Section 9 on March 27, 2017, that allowed adoption by reference of federal regulations as of July 1, 2016, and have since been superseded by the March 28, 2018 submittal. The EPA finds that the updates proposed to Chapter 3, Section 9, are necessary and appropriate to cite the more recent July 1, 2017 CFR and incorporate by reference.

- 7) This action proposes to update Chapter 2, Ambient Standards, Section 6, Ambient standards for ozone. The State has revised Section 6 to include the latest (2015) ozone National Ambient Air Quality Standards (NAAQS). The EPA finds that this update is necessary and appropriate to reflect EPA's 2015 revision to the ozone NAAQS. 40 CFR 50.19.
- 8) The State previously submitted SIP revisions for Chapter 2, Section 12, Incorporation by reference on March 27, 2017, that allowed adoption by reference of federal regulations as of July 1, 2016. The EPA finds that this update is necessary and appropriate to update the incorporation by reference date to July 1, 2017, as requested in Wyoming's March 28, 2018 letter.

III. The EPA's Proposed Action

In this action, the EPA is proposing to approve the eight SIP submittals to the Wyoming Air Quality Standards and Regulations submitted by the State of Wyoming on March 27, 2017 and March 28, 2018. This action proposes updates to: 1) Chapter 8 Nonattainment Area Regulations, Section 10, Incorporation by reference (2017 Submittal); 2) Chapter 8, Nonattainment Area Regulations, Section 3, Conformity of general federal actions to state implementation plans (2018 Submittal), and Section 10, Incorporation by reference (2018 Submittal); 3) Chapter 6, Permitting Requirements, Section 4, Prevention of significant deterioration, to remove an outdated *Federal Register* citation under the definition of 'typical CO₂ equivalent emission (CO₂e)' (2017 Submittal); 4) Chapter 6, Permitting Requirements, Section 14, Incorporation by reference (2018 Submittal); 5) Chapter 3, General Emission Standards, Section 3, Emission standards for nitrogen oxides, which corrects an inconsistency regarding internal combustion engines (2017 Submittal); 6) Chapter 3, General Emission Standards,

Section 9, Incorporation by reference (2018 Submittal); and 7) Chapter 2, Ambient Standards, Section 6, to include the latest ozone NAAQS (2017 Submittal); 8) Chapter 2, Ambient standards for ozone, and Section 12, Incorporation by reference (2018 Submittal).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the amendments described in section III. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not proposed to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose

substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 13, 2018.

Debra Thomas,

Acting Regional Administrator,

Region 8.

[FR Doc. 2018-15481 Filed: 7/20/2018 8:45 am; Publication Date: 7/23/2018]